

THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EQUAL EMPLOYMENT OPPORTUNITY :
COMMISSION, :

Applicant, :

v. :

CITY OF LONG BRANCH, :

Declaration of Rosemary DiSavino

Civil Action No.: 3:15-cv-01081-MAS-TJB

Respondent. :

Rosemary DiSavino, being duly sworn, hereby deposes and says as follows:

1. I am a senior trial attorney with the U.S. Equal Employment Opportunity Commission, plaintiff in this matter, and as such am fully familiar with the facts set forth herein.
2. I submit this Declaration, in accordance with Local Rule 79.4, in support of the EEOC's Motion to Enforce the mandate issued in this matter.
3. This motion is made to effectuate the directive set forth in the September 26, 2017 docket entry and, pursuant to Local Rule 7.1(d)(4), it is not necessary to file a brief in support of the motion.
4. This matter commenced on February 10, 2015 with the EEOC's filing of a Motion to Enforce a Subpoena. Dkt. 1.
5. On July 30, 2015, the Honorable Tonianne J. Bongiovanni filed a letter order. Dkt. 7.
6. The EEOC appealed Judge Bongiovanni's Order (Dkt. 8) to the Honorable Michael A. Shipp and on March 21, 2016 Judge Shipp issued an Opinion (Dkt. 11) and Order (Dkt. 12) affirming Judge Bongiovanni's decision.
7. The EEOC appealed Judge Shipp's Order (Dkt. 14) and on August 2, 2017 the U.S. Court of Appeals for the Third Circuit issued a Judgment vacating and remanding this Court's prior Opinion and Order.
8. On September 26, 2017, the docket entry issued in this case directed the EEOC, as the prevailing party, "to prepare and submit an order implementing the mandate or judgment."
9. The Third Circuit opinion provided that "[t]he District Court may consider the [EEOC's] motion to enforce [the subpoena] in the first instance or it may treat the Magistrate Judge's order as a report and recommendation and allow the parties the opportunity to object." Dkt. 16, pg. 15.

10. In accordance with the Third Circuit's opinion, the EEOC requests that this Court consider the EEOC's motion to enforce the subpoena in the first instance. Dkt. 16, pg. 15. The Third Circuit's opinion discusses certain substantive issues which the parties should have an opportunity to address before the Court issues a decision in this matter.
11. Therefore, the EEOC also requests an opportunity for supplemental briefing in order to permit the parties to address the substantive issues raised in the Third Circuit's opinion. A proposed briefing schedule is set forth in the proposed Order.
12. Alternatively, should this Court decide to treat Magistrate Bongiovanni's order as a report and recommendation, an option provided for by the Third Circuit opinion (Dkt. 16, pg. 15), the EEOC proposes that the parties be granted an opportunity to file objections to Judge Bongiovanni's Order, by filing objections within 14 days after entry of an order from this Court.

Dated: October 12, 2017

Respectfully Submitted,

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION**

/s/ Rosemary DiSavino

Rosemary DiSavino

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